

Notice of Allowability	Application No.	Applicant(s)	
	10/723,461	LAHTI ET AL.	
	Examiner Richard L. Leung	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to amendment filed 24 January 2005.
2. The allowed claim(s) is/are 1,3,5-16 and 19-21.
3. The drawings filed on 16 April 2004 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

DETAILED ACTION

Allowable Subject Matter

1. Claims 1, 3, 5-16, 19-21 are allowed.
2. The following is an examiner's statement of reasons for allowance:

As amended, all independent claims recite the limitation, "nonporous igneous rock," which renders the claims allowable. A search of the prior art has indicated that it is already known in the art to use chilled rocks and stones to cool drinks, as demonstrated by "Large Cooling Stones," but the prior art has failed to expressly teach or strongly suggest the specific use of nonporous igneous rock in such an application. Although US Patent No. 4081024 (Rush et al.) teaches that granite, a nonporous igneous rock, has a high thermal capacity, Applicant has persuasively argued in remarks dated 24 January 2005 that combining the teachings of "Large Cooling Stones" and Rush et al. is based upon impermissible hindsight reasoning. Accordingly, the rejections based upon the combination of these references are withdrawn. While a further search of the prior art has revealed that it was known in the art to use cubes of soapstone in place of ice for the purpose of cooling drinks (see "Ice Cube of Sweden," cited below), this again fails to teach the use of the claimed nonporous igneous rock since soapstone is understood to be a soft, metamorphic rock that would inherently have different properties. The other cited references considered pertinent do not overcome this deficiency. Therefore without a clear teaching in the prior art, it cannot be reasonably concluded that it would have been obvious to one of ordinary skill in the art at the time

of the invention to have used nonporous igneous rock as recited in the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

3. In response to applicant's argument regarding the date of publication for "Large Cooling Stones," (http://www.halfbakery.com/idea/Large_20Cooling_20Stones), it is submitted that the date of availability for websites may be verified through the Internet archiving website: <http://www.archive.org/> In this case, the earliest archived date given for "Large Cooling Stones" is 13 April 2001, which is prior to a year before the earliest effective filing date of the present application. A printed copy of the archived version of "Large Cooling Stones" has been provided along with this Office Action to demonstrate that the information disclosed therein is identical to the information relied upon in the previous Office Action. Accordingly, "Large Cooling Stones" is still considered to be valid prior art under 35 U.S.C. 102(b). Likewise, an archived copy of "Ice Cube of Sweden" (<http://www.icecube.se/English/Product.htm>) dated 28 September 2000 has also been provided and is cited below.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 2152467 (Crosby)

US Patent No. 2688467 (Leatzow)

US Patent No. 4554189 (Marshall)

US Patent No. 4761314 (Marshall)

"Ice Cube of Sweden" [online], [retrieved on 11 April 2005]. 2000. Retrieved from the Internet <URL:<http://web.archive.org/web/20000928194235/http://www.icecube.se/English/Product.htm>>

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Leung whose telephone number is 571-272-4811. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise L. Esquivel can be reached on 571-272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard L. Leung
Examiner
Art Unit 3744

Application/Control Number: 10/723,461
Art Unit: 3744

Page 5

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